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September 23, 2004

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## **Via Electronic Filing**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: **EX PARTE**  
Wireless Termination Tariffs, CC Docket No. 01-92

Dear Ms. Dortch:

On September 22, 2004, on behalf of T-Mobile USA, Inc. ("T-Mobile"), Harold Salters and the undersigned of Morrison & Foerster LLP, conducted a teleconference with Christopher Libertelli, senior advisor to Chairman Michael Powell and Aaron Goldberger, to discuss the above-captioned proceeding. The parties also reported that T-Mobile filed on September 9, 2004, a complaint for declaratory and injunctive relief in the United States District Court for the Northern District of Illinois, Eastern Division, seeking a determination that the Illinois Commerce Commission is preempted by federal law from enforcing the terms of certain wireless termination tariffs filed by multiple incumbent local exchange companies doing business in Illinois.

The parties discussed the status of a petition for declaratory ruling ("Petition") filed on September 6, 2002, in the above-captioned docket, seeking a ruling on the lawfulness of wireless termination tariffs filed by local exchange companies with multiple state public utility commissions.<sup>1</sup> The petition was filed jointly by T-Mobile, Western Wireless, Nextel Communications and Nextel Partners. The parties otherwise reiterated arguments advanced in the Petition and in a written ex parte filed by T-Mobile in the docket on July 8, 2004.

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<sup>1</sup> See FCC Public Notice, *Comment Sought on Petition for Declaratory Ruling Regarding Intercarrier Compensation for Wireless Traffic*, CC Docket No. 01-92, DA 02-2436, 17 FCC Rcd 19046 (2002)

**MORRISON & FOERSTER LLP**

Marlene H. Dortch  
September 23, 2004  
Page Two

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being filed with the Secretary's office for inclusion in CC Docket No. 01-92.

Respectfully submitted,

/s/ Cheryl A. Tritt

Cheryl A. Tritt

cc: Christopher Libertelli  
Aaron Goldberger